

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

OLIVIA Y., et al.

PLAINTIFFS

v.

CIVIL ACTION NO. 3:04CV251LN

HALEY BARBOUR, as Governor of the State of Mississippi, et al.

DEFENDANTS

**MOTION TO PLACE EXHIBITS TO THE COURT MONITOR'S REPORT TO THE
COURT REGARDING DEFENDANTS' PROGRESS TOWARD MEETING
PERIOD 2 REQUIREMENTS UNDER SEAL**

The Court Monitor respectfully moves this Court pursuant to Uniform Local Rule 83.6 to place Exhibits 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 58 and 59 to the Court Monitor's Report to the Court Regarding Defendants' Progress Toward Meeting Period 2 Requirements, filed September 8, 2010, under seal. The parties have no objection to this request.

The exhibits reveal confidential individually-identifying information about members of the Plaintiff class, their families, and persons included in case files as the source of information concerning the child and foster family members covered by this Court's Confidentiality Order dated August 5, 2004, a copy of which is attached hereto as Exhibit A. The Court Monitor's report was filed today without the above-identified exhibits, which will be filed under seal in the event the Court grants this motion.

Paragraph 2 of the Confidentiality Order states:

Any individually-identifying information ... regarding any plaintiff child, such child's family members, foster family members, and persons included in any case files as the source of information concerning the child – including but not limited to these persons' names, addresses, telephone numbers, social security numbers, dates of birth, and other individual information likely to enable a

reasonable member of the general public to ascertain their identities – is hereby designated to be confidential.

The above-listed exhibits are investigative reports regarding alleged maltreatment of class members and reports concerning safety assessments related to children in foster care facilities maintained by the defendants, which reveal individually-identifying information concerning class members and persons included in their case files. Such confidential information is protected by the Court's Confidentiality Order.

Accordingly, the Court Monitor requests that the Court place Exhibits 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 58 and 59 to the Court Monitor's Report to the Court Regarding Defendants' Progress Toward Meeting Period 2 Requirements under seal. A proposed order is attached for the Court's convenience.

Respectfully submitted, this 8th day of September, 2010.

/s/ Grace M. Lopes
Grace M. Lopes (MBN 45693 *pro hac vice*)
Court Monitor
1350 Connecticut Avenue, N.W.
Suite 1000
Washington, D.C. 20036
(202) 232-8311
gmlopes@oymonitor.org

CERTIFICATE OF SERVICE

I hereby certify that on September 8, 2010 the Motion to Place Exhibits to the Court Monitor's Report to the Court Regarding Defendants' Progress Toward Meeting Period 2 Requirements Under Seal was transmitted electronically to the following counsel of record in this matter:

Dewitt L. ("Rusty") Fortenberry Jr.
Kenya Key Rachal
Ashley Tullos Young
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
428 I-55 North
Meadowbrook Office Park
Jackson, Mississippi 39211

Harold E. Pizzetta, III
Assistant Attorney General
General Civil Division
Carroll Gartin Justice Building
430 High Street
Jackson, MS 39201

W. Wayne Drinkwater, Jr.
BRADLEY ARANT ROSE & WHITE LLP
188 East Capital Street, Suite 450
Jackson, Mississippi 39201

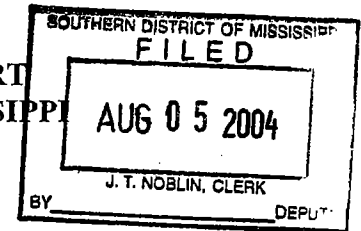
Marcia Robinson Lowry
Shirim Nothenberg
Jessica Polansky
CHILDREN'S RIGHTS
330 Seventh Avenue
New York, New York 10001

John Lang
John Piskora
LOEB & LOEB LLP
345 Park Ave.
New York, New York 10154

/s/ Grace M. Lopes

Exhibit A

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION



OLIVIA Y., et al.

PLAINTIFFS

v.

CIVIL ACTION NO. 3:04CV251LN

HALEY BARBOUR, as Governor of the State of Mississippi, et al.

DEFENDANTS

CONFIDENTIALITY ORDER

By agreement of the parties and for good cause shown, it is hereby ordered that:

1. This Confidentiality Order governs DHS records disclosed as part of this litigation. It does not affect the dissemination of confidential information in the ordinary course of business at DHS under existing confidentiality policies and laws.
2. Any individually-identifying information in any record maintained and produced by the Department of Human Services ("DHS"), regarding any plaintiff child, such child's family members, foster family members, and persons included in any case files as the source of information concerning the child – including but not limited to these persons' names, addresses, telephone numbers, social security numbers, dates of birth, and other individual information likely to enable a reasonable member of the general public to ascertain their identities – is hereby designated to be confidential and shall be subject to the provisions of this Order.
3. Disclosure of any such individually-identifiable information derived from records produced by DHS shall be limited to the parties and their counsel and to such

other personnel employed by the parties, including experts and persons employed by experts, in the litigation of the claims in the above-styled case with the following exception: Counsel for the parties are authorized to interview, depose, or otherwise contact fact witnesses and/or former DHS employees, solely for purposes connected with the litigation of the claims in the above-styled case, using individually-identifiable information derived in whole or in part from materials produced by DHS.

4. Any proper person to whom any individually-identifiable information identified in paragraph 2 is disclosed under the terms of this Order shall be provided a copy of this Order and is directed not to reveal the contents thereof for any purpose other than as permitted in this Order.

5. The use of any individually-identifiable information identified in paragraph 2 for any purpose other than the preparation and trial of the above-styled case or other proceedings related to this litigation is prohibited, except as allowed by statute or modified by subsequent order of this Court.

6. Notwithstanding any provision of this Confidentiality Order, parties and their counsel may disclose any information contained in DHS records provided that such information does not contain any individually-identifying information as defined in paragraph 2.

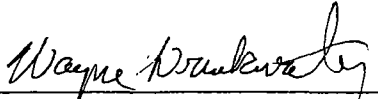
ENTERED this 5th Day of Aug, 2004.

S/Alfred G. Nicols, Jr.

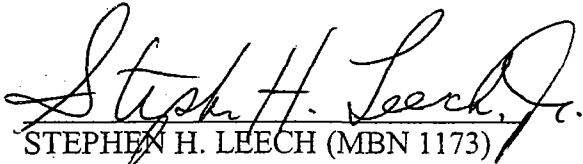
ALFRED G. NICOLS, JR.
UNITED STATES MAGISTRATE JUDGE

AGREED TO AND APPROVED FOR ENTRY:

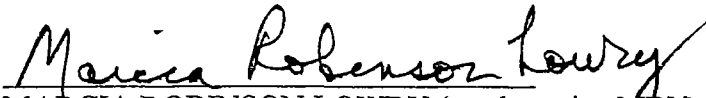
ATTORNEYS FOR PLAINTIFFS:



BRADLEY ARANT ROSE & WHITE LLP
WAYNE DRINKWATER (MBN 6193)
MELODY MCANALLY (MBN 101236)
188 East Capital Street, Suite 450
Jackson Mississippi 39201
(601) 498-8000



STEPHEN H. LEECH (MBN 1173)
850 East River Place, Suite 300
Jackson, Mississippi 39202
(601) 355-4013




MARCIA ROBINSON LOWRY (pro hac vice MBN 43991)
ERIC THOMPSON (pro hac vice MBN 43993)
SHIRIM NOTHENBERG (pro hac vice MBN 43990)
CORENE KENDRICK (pro hac vice MBN 43989)
CHILDREN=S RIGHTS, INC.
404 Park Avenue South, 11th Floor
New York, NY 10016
(212) 683-2210



LOEB & LOEB LLP

JOHN YANG (pro hac vice MBN 43987)
CHRISTIAN D. CARBONE (pro hac vice MBN 43986)
345 Park Ave.
New York, New York 10154
(212) 407-4000

ATTORNEYS FOR DEFENDANTS:


HAROLD E. PIZZETTA III (MBN 99867)
SPECIAL ASSISTANT ATTORNEY GENERAL
Civil Litigation Division
Office of Attorney General
P.O. Box 220
Jackson, MS 39205
(601) 359-3680

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

OLIVIA Y., et al.

PLAINTIFFS

v.

CIVIL ACTION NO. 3:04CV251LN

HALEY BARBOUR, as Governor of the State of Mississippi, et al.

DEFENDANTS

**ORDER SEALING EXHIBITS TO THE COURT MONITOR'S REPORT TO THE
COURT REGARDING DEFENDANTS' PROGRESS TOWARD MEETING
PERIOD 2 REQUIREMENTS UNDER SEAL**

Upon consideration of the Court Monitor's Motion to Place Exhibits 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 58 and 59 to the Court Monitor's Report to the Court Regarding Defendants' Progress Toward Meeting Period 2 Requirements Under Seal, the agreement and consent of the parties, the Confidentiality Order dated August 5, 2004, and the entire record herein, it is by the Court on this _____ day of _____, 2010

ORDERED, that the foregoing motion is hereby GRANTED; and it is further

ORDERED, that pursuant to Rule 83.6 of the Uniform Local Rules of the United States District Court for the Northern and Southern Districts of Mississippi, Exhibits 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 58 and 59 to the Court Monitor's Report to the Court Regarding Defendants' Progress Toward Meeting Period 2 Requirements shall be placed under seal.

TOM S. LEE
JUDGE

Copies to:

Dewitt L. ("Rusty") Fortenberry Jr.
Kenya Key Rachal
Ashley Tullos Young
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
428 I-55 North
Meadowbrook Office Park
Jackson, Mississippi 39211

Harold E. Pizzetta, III
Assistant Attorney General
General Civil Division
Carroll Gartin Justice Building
430 High Street
Jackson, MS 39201

W. Wayne Drinkwater, Jr.
BRADLEY ARANT ROSE & WHITE LLP
188 East Capital Street, Suite 450
Jackson, Mississippi 39201

Marcia Robinson Lowry
Shirim Nothenberg
Jessica Polansky
CHILDREN'S RIGHTS
330 Seventh Avenue
New York, New York 10001

John Lang
John Piskora
LOEB & LOEB LLP
345 Park Ave.
New York, New York 10154

Grace M. Lopes
Court Monitor
1350 Connecticut Avenue, N.W., Suite 1000
Washington, D.C. 20036